

Before the
Federal Communications Commission
Washington, DC 20554

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| In the Matter of |) | |
| |) | |
| Revision of the |) | CC Docket 94-102 |
| Commission's Rules To |) | |
| Ensure Compatibility With |) | |
| Enhanced E-911 Emergency |) | |
| Calling Systems |) | |

PHASE II INTERIM REPORT AND REQUEST FOR WAIVER

Pursuant to the Order To Stay,¹ Custer Telephone Cooperative, Inc. ("Custer") files its Phase II Interim Report and Request For Waiver. Custer's TRS Identification Number is 806388.

INTRODUCTION AND REQUEST FOR PROCEDURAL WAIVER

Custer is a rural telephone cooperative which provides non-wireline cellular service in rural portions of Idaho RSA #3 - Lemhi (call sign WPOL-948). It serves approximately 350 customers with two cell sites. Custer is thus a "Tier III" carrier pursuant to Order To Stay, ¶¶ 23-24, and is one of the smallest wireless licensees in the United States.

Through an inadvertent error, Custer was unaware of the August 1, 2003 deadline for Tier III carrier Phase II Interim Reports. It regrets the error, which will not be repeated. Accordingly, however, Custer requests that the FCC grant any

¹ See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Order To Stay, CC Docket 94-102 (rel. July 26, 2002) ("Order To Stay"; Wireless

necessary waiver of Section 20.18 of the FCC's Rules to accept and process this report and the request for waiver of the substantive E-911 deployment deadlines which it contains.

Custer will also comply with the additional reporting requirements set out in the FCC's order of October 10, 2003 and thus submit an additional report on its E-911 Phase II deployment progress no later than January 15, 2004.²

BACKGROUND

In November, 2000, in its initial E-911 implementation report, Custer noted that it had a contract with United States Cellular Corporation ("US Cellular") to provide switching and other services for its two cell sites. At that time, Custer noted that its "technology solution and implementation plan for Phase II location information is inextricably tied to the plan adopted by US Cellular."

As will be discussed below, that remains the situation today.

RESPONSE TO QUESTIONS

In June, 2003, the Wireless Bureau requested that carriers answer certain questions regarding "enhanced" 911 deployment in their Phase II "Interim Reports."³ Custer's answers to the questions which are relevant to its situation are given below:

Telecommunications Bureau Provides Further Guidance on Interim Report Filings, Public Notice, CC Docket 94-102, DA 03-2113 (rel. June 30, 2003).

² See In the Matter of Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems: E911 Compliance Deadlines for Non-Nationwide Tier III CMRS Carriers, Order To Stay, CC Docket No. 94-102 (rel. October 10, 2003) ("October Stay Order").

³ See Wireless Telecommunications Bureau Provides Further Guidance on Interim Report Filings, Public Notice, CC Docket 94-102, DA 03-2113 (rel. June 30, 2003).

1. There are portions of two counties (Custer and Lemhi) within Custer's Idaho RSA #3 service area. Custer serves an area in Idaho RSA #3 which had been "unserved" by the Idaho RSA #3 non-wireline licensee, USCOC of Idaho RSA #5, Inc., a subsidiary of US Cellular. There is no PSAP in Custer's service area and all 911 calls, including those from Lemhi County, are simply forwarded from US Cellular's switch in Pocatello, ID to the local sheriff's office in Custer County. Thus, Custer has received no Phase I or Phase II E-911 requests, valid or otherwise.
2. Custer currently provides analog and TDMA digital cellular service. Its system uses the switch of US Cellular in Pocatello, Idaho. Like US Cellular, Custer plans to deploy a handset-based solution for E-911 purposes, to be implemented in conjunction with US Cellular's projected conversion to CDMA service at a new switch at Twin Falls, ID. There is currently no available GPS-enabled analog or TDMA handsets and it would make no sense for Custer to expend resources on TDMA system upgrades in light of the imminent CDMA conversion.

US Cellular has advised Custer that it plans its CDMA conversion at Twin Falls on a switch by approximately July 1, 2004. US Cellular has explained its general plan for its CDMA conversion in its Interim Report filed July 25, 2003, in which Custer concurs. After US Cellular's Twin Falls CDMA conversion, Custer will begin selling CDMA GPS-capable handsets, working closely with US Cellular.⁴

⁴ In its recent order dealing with Phase II E911 waivers, released on October 21, 2003, the FCC described US Cellular's TDMA/CDMA conversion plan, which is dependent on the availability of GPS-capable handsets. See In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Petitions for Reconsideration of Phase II Waivers and Compliance Plans of Cingular Wireless, Nextel and Verizon Wireless; Petitions for Reconsideration of Phase II Compliance Deadlines for Non-Nationwide CMRS Carriers of Alltel and Dobson, Order, CC Docket 94-102, FCC 03-247, released October 21, 2003, ¶ 22n.54.

3. Custer has chosen Nortel as its CDMA vendor and is issuing purchase orders for CDMA cell site equipment, which will be capable of passing ALI information to US Cellular's Twin Falls switch, which could then be sent to any PSAP capable of receiving it. Custer is advised by US Cellular that it has also not yet received any PSAP Phase I or Phase II requests in Idaho. Custer nonetheless expects the CDMA conversion process to be complete at its two cell sites by September 30, 2004.

4. Custer anticipates selling the Motorola v120e and Nokia 358bi or later model GPS-enabled handsets in its market. It will be able to do so when US Cellular completes its conversion in Twin Falls and Custer makes the necessary upgrades at its cell sites.

5. Custer anticipates deploying Phase II service in accordance with the following schedule. The schedule is an estimate, in large part dependent on factors outside Custer's control. Custer will advise the FCC in January 2004 or subsequently if it cannot meet the deadlines provided herein:

- (i) September 30, 2004 - begin selling and activating ALI-capable CDMA handsets;
- (ii) January 1, 2005 - ensure that at least 25% of all new CDMA handsets activated are ALI capable;
- (iii) June 30, 2005 - ensure that at least 50% of all new CDMA handsets are ALI-capable;
- (iv) December 31, 2005 - ensure that at least 100% of all new CDMA handsets are ALI-capable;
- (v) December 31, 2006 - ensure that 95% of all CDMA subscribers have ALI-capable handsets.

This schedule differs from the "Tier III" carrier deployment schedule given in Paragraph 33 of the Order To Stay and Custer requests any necessary waiver of Section 20.18 (e)-(g) of the Rules to permit its lawful implementation.⁵

The requested waiver should be granted for several reasons. First, Custer is entirely dependent on US Cellular for switching services and cannot implement a CDMA conversion until US Cellular does. Second, the proposed schedule reflects what will be Custer's best efforts to achieve compliance with the FCC's E-911 requirements and no carrier should be held to more than its best possible efforts to comply with a regulation. Lastly, Custer is a very small, non-profit rural telephone cooperative, for whom E-911 compliance will be disproportionately difficult and expensive. It should be given adequate time to comply with a complex, time-consuming, and expensive regulatory mandate, however worthy the goals of E-911 certainly are.

Moreover, Custer should also be granted the requested waiver for reasons of equitable treatment with its fellow Tier III carriers.

As noted above, recently the FCC adopted the October Stay Order in this docket. That order grants to Tier III carriers which had filed petitions for waiver of Phase II E-911 requirements in response to the prior Order To Stay of July 26, 2002, a stay of such requirements from September 1, 2003 until the earlier of six

⁵ That schedule required that Tier III carriers begin the sale of location-capable handsets by September, 2003, ensure that at least 25 and 50 percent of all handsets be location-capable by no later than November 30, 2003 and May 31, 2004, respectively, and that 100 percent all new digital handsets be location-capable by November 30, 2004, with an overall 95 percent penetration of digital handsets by December 31, 2005. Of course, none of the benefits of location capability can be obtained unless PSAPs are Phase I and Phase II capable and no PSAPs in Custer's region have such

months from October 10, 2003 or the time the FCC rules on their pending requests. It also allowed pending petitions to be supplemented and required reports be filed in January, 2004.

Finally, perhaps the best reason to grant the requested waiver is that none of the counties in Custer's region of Idaho have funded upgrades to their PSAPs to process Phase I or II E-911 information. Until that process, over which Custer has no control, is begun and completed, it will not matter what local wireless carriers do to upgrade their systems. As explained above, Custer is a very small carrier and is doing the best it can to implement E-911 service as fast as it can.

As noted above, Custer did not file a petition in response to the Order To Stay though it did file an initial E-911 report in November, 2001 and has been pursuing E-911 compliance efforts as discussed herein. However, it was not covered by the October Stay Order. Custer thought it appropriate in light of all the circumstances to place this request on file now and will supplement it, as the October Stay Order required, by January 15, 2004.

However, Custer would note in conclusion that, notwithstanding procedural deadlines, it stands in exactly the same substantive position as do the other Tier III carriers granted a stay in the October Stay Order and should receive comparable treatment. All Tier III carriers are trying to cope with the complex E-911 regulatory mandate and the FCC should deal with them reasonably, as the October Stay Order recognized.

capability. Moreover, as noted above, Custer's CDMA conversion must proceed in tandem with that of US Cellular.

CONCLUSION

For the foregoing reasons, Custer should be granted the waivers it requests.

Respectfully submitted,

CUSTER TELEPHONE COOPERATIVE, INC.

By: _____

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October 23, 2003

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